

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CASE NO. 1:12mj-34

UNITED STATES OF AMERICA

vs.

ARMANDO GONZALEZ,
a/k/a Manny Gonzalez,

Defendant.

GOVERNMENT'S MOTION FOR PRE-TRIAL
DETENTION AND SUPPORTING MEMORANDUM

The Government respectfully moves the Court to detain Defendant ARMANDO GONZALEZ, a/k/a Manny Gonzalez ("Defendant"), pending trial. Defendant masterminded and executed a health care fraud conspiracy that fraudulently billed Medicare and Medicaid over \$63 million over the span of over six years and two states. The vast majority of the \$28 million in proceeds from his crimes have disappeared, and Defendant's potential prison sentence under the Sentencing Guidelines is approximately 360 months to life imprisonment. As set forth below, the Government respectfully submits that no condition or combination of conditions of release will reasonably assure the appearance of Defendant and the safety of other persons and the community. See 18 U.S.C. § 3142(e)(1).

BACKGROUND

On April 26, 2012, a grand jury sitting in the Southern District of Florida returned a 23-count indictment charging Defendant and his co-conspirators with various offenses stemming from a health care fraud conspiracy that began in South Florida and expanded to North Carolina. See Indictment in United States v. Gonzalez et al., No. 12-20291-CR-ALTONAGA (S.D. Fl.),

annexed hereto at Attachment A. Specifically, Defendant is charged with one count of conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349, three counts of conspiracy to receive and pay health care kickbacks, in violation of 18 U.S.C. § 371, one count of conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h), five counts of money laundering (spending), in violation of 18 U.S.C. § 1957, and five counts of money laundering (concealment) in violation of 18 U.S.C. § 1957. The Indictment also seeks forfeiture, pursuant to 18 U.S.C. § 982.

Defendant owned and operated an entity called Health Care Solutions Network (“HCSN”) which purported to provide intensive mental health services called Partial Hospitalization Program (“PHP”) services which is covered by Medicare and Florida Medicaid. Typically, a patient who needs this intensive PHP treatment has a long history of serious mental illness and is ordinarily referred either (a) by a hospital after full inpatient hospitalization for severe mental illness where a doctor determines that it is appropriate for the patient to “step down” to a PHP, or (b) by a doctor who is “stepping up” a severely mentally ill patient who the doctor has been treating but is trying to prevent full inpatient hospitalization. Further, PHP patients must be able to cognitively and emotionally participate in the treatment. Thus, patients with progressive dementias and other cognitive deficits (e.g., patients who are taking medications for moderate or severe Alzheimer’s Disease) would not be eligible for PHP treatment.

ARGUMENT

The Bail Reform Act empowers this Court to detain a defendant pending trial upon a finding that “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C.

§ 3142(e)(1). In determining whether detention pending trial is appropriate, the Court must consider the following factors: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the person; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. Id. § 3142(g).

1. The Nature and Circumstances of the Offenses Charged

Defendant's exposure to a lengthy term of imprisonment, and his attempts to conceal his health care fraud scheme, including his movement to North Carolina after his scheme came under investigation by Medicare, and his designs on moving his operation to Tennessee, demonstrate that Defendant poses a serious flight risk.

Under the Indictment, Defendant faces a total statutory maximum sentence of 145 years imprisonment. A preliminary Sentencing Guidelines analysis indicates that Defendant's offense level is 42. Defendant falls within Criminal History Category II, based on Defendant's 1984 drug trafficking conviction (cocaine) for which he was sentenced to a term of imprisonment of five and ½ years. Thus, Defendant's sentencing range would be 360 months to life imprisonment. Additionally, Defendant also faces forfeiture of at least \$28 million, which represents the amount of money that Medicare and Medicaid paid as a result the Defendant's criminal activities.

Defendant has also demonstrated a pattern of sophisticated abilities to deceive authorities and conceal his fraud. HCSN began in South Florida purporting to offer PHP services at two locations in Miami, Florida. Instead of receiving patient referrals from hospitals or doctors, Defendant surreptitiously paid cash kickbacks to owners and operators of Assisted Living Facilities ("ALFs") in exchange for Medicare beneficiary referrals to HCSN. Defendant further

concealed the fraudulent scheme by falsifying medical records. In 2008, after Medicare began to investigate HCSN in South Florida, Defendant began to file false and fraudulent claims in Hendersonville, North Carolina. In North Carolina, as in Florida, Defendant obtained Medicare beneficiary referrals from nursing homes and ALFs, and he directed the falsification of medical records to conceal the fact that patients were not qualified for PHP treatment, were shown commercial movies instead of receiving any treatment, and were simply not present during purported treatment sessions. Not only did Defendant expand his fraudulent scheme to North Carolina, he also moved materials from his fraudulent operations in Miami and stored them in North Carolina after his Miami facilities were closed. Further, Defendant spoke of his intention to expand HCSN to Johnson City, Tennessee. Defendant also engaged in a sophisticated money laundering scheme by funneling illicit proceeds through shell corporations, including Psychiatric Consulting Network, Inc. ("PCN"), and Procure Management and Financial Network, Inc. ("Procure"). In short, from in or around November 2004, through in or around March 2011, Defendant deceived authorities by concealing his fraudulent activities and laundering illicit proceeds, and even changing the location of his fraudulent scheme to North Carolina after he came under investigation in Miami. Given his lengthy prison exposure and his history of sophisticated deception and concealment, Defendant poses a serious flight risk.

2. The Weight of the Evidence

The weight of the evidence against Defendant is substantial. Corporate and bank records tie Defendant to HCSN in South Florida and North Carolina as well as to PCN and Procure, and Medicare and Medicaid records establish that Defendant was responsible for the false and fraudulent claims. Several cooperating witnesses have stated that Defendant directed the payment of illegal health care kickbacks to ALFs and that he directed the falsification of medical

records to support the submission of false and fraudulent claims. The strength of the Government's evidence strongly supports pre-trial detention.

3. The Defendant's History and Characteristics

Defendant's access to substantial financial resources, including millions of missing and laundered proceeds, makes him an especially high flight risk. As stated above, Defendant faces forfeiture of at least \$28 million, which represents the amount of money that Medicare and Medicaid paid as a result of the Defendant's criminal activities. While the Government has been able to trace some of these monies to properties which the Government has sought to forfeit, the vast majority of the \$28 million has disappeared. As alleged in the Indictment, a substantial portion of this money has been laundered through shell corporations. If released pending trial, Defendant would have access to millions of dollars enabling him to flee and live comfortably overseas. In this regard, the Government's records indicate that Defendant is a Cuban national, and if he were to flee to Cuba, extradition would be highly improbable.

Defendant also has known ties to Lawrence Duran, the lead defendant in a separate case involving the same PHP fraud scheme in South Florida committed by an entity called American Therapeutic Corporation ("ATC"). Duran pleaded guilty to various health care fraud and money laundering charges in United States v. Duran et al., No. 10-20767-CR-KING (S.D. Fl.), and was sentenced to 50 years' imprisonment. Duran and Defendant were both members of the National Association of Behavioral Health ("NABH"), an organization that represented and lobbied for entities like HCSN and ATC, and Duran asked Defendant to join NABH. After Duran's arrest, HCSN's billing changed to become less apparently fraudulent. Given that Defendant is undoubtedly aware of Duran's sentence and given further Defendant's exposure in

this case and the weight of the evidence against him and his access to substantial financial resources, Defendant poses a high flight risk.

4. The Nature and Seriousness of Defendant's Danger to the Community

Defendant also poses a physical and economic danger to the community. Defendant has engaged in a pattern of fraudulent activity that is staggering in its breadth and scope. He has also gone to great lengths to cloak his fraud under the guise of legitimacy, going so far as to falsify medical records so that they would appear to support his false and fraudulent claims. In so doing, Defendant has demonstrated contempt for both the public fisc and for the well-being of patients purportedly in his care. Indeed, Medicare beneficiaries were transported on HCSN vans for as long as one hour and as far as two counties away from Hendersonville, and several cooperating witnesses described a substantial number of patients at HCSN suffering from dementia and Alzheimer's Disease. Based on the facts set forth in this memorandum, there is a high likelihood that, if released, Defendant would continue his pattern of criminal activity detrimental to the community. Defendant's detention is necessary to ensure that he does not continue to use and endanger vulnerable Medicare beneficiaries in order to steal millions more from Medicare and Medicaid.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that the Court detain Defendant Gonzalez pending trial.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on _____, I electronically filed and served this document using CM-ECF.

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